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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

CHASOM BROWN, WILLIAM BYATT,
JEREMY DAVIS, CHRISTOPHER
CASTILLO, and MONIQUE TRUJILLO
individually and on behalf of all similarly
situated,

Plaintiffs,

vs.

GOOGLE LLC,

Defendant.

Case No.: 4:20-cv-03664-YGR-SVK

**PLAINTIFFS' ADMINISTRATIVE
MOTION TO FILE UNDER SEAL
PORTIONS OF PLAINTIFFS'
OPPOSITION TO GOOGLE'S MOTION
FOR SUMMARY JUDGMENT**

Judge: Hon. Yvonne Gonzalez Rogers

Date: May 12, 2023

Time: 1:00 p.m.

Location: Courtroom 1 – 4th Floor

Pursuant to Civil Local Rule 7-11 and 79-5 and the Stipulated Protective Order entered in this matter, Dkt. 81, Plaintiffs respectfully submit this Administrative Motion to Seal the following material submitted with Plaintiffs' opposition to Google's motion for summary judgment.

Document or Portion of Document Sought to Be Sealed	Party Claiming Confidentiality	Basis for Sealing
June 7, 2022 Rebuttal and Supplemental Expert Report of Jonathan Hochman ("Hochman Rebuttal"): Portions highlighted in yellow in paragraphs 22-23, 30, 38-47, 67-69	Plaintiffs	Contains Material Designated "Confidential" by Plaintiffs pursuant to the Protective Order
Hochman Rebuttal Report Exhibit A (entirety)	Plaintiffs	Contains Material Designated "Confidential" by Plaintiffs pursuant to the Protective Order
Hochman Rebuttal Report Exhibit B (entirety)	Plaintiffs	Contains Material Designated "Confidential" by Plaintiffs pursuant to the Protective Order
Hochman Rebuttal Report Appendix A (entirety)	Plaintiffs	Contains Material Designated "Confidential" by Plaintiffs pursuant to the Protective Order
Hochman Rebuttal Report Appendix B (entirety)	Plaintiffs	Contains Material Designated "Confidential" by Plaintiffs pursuant to the Protective Order
Hochman Rebuttal Report Appendix C (entirety)	Plaintiffs	Contains Material Designated "Confidential" by Plaintiffs pursuant to the Protective Order
Hochman Rebuttal Report Appendix D (entirety)	Plaintiffs	Contains Material Designated "Confidential" by Plaintiffs pursuant to the Protective Order
Hochman Rebuttal Report Appendix E (entirety)	Plaintiffs	Contains Material Designated "Confidential" by Plaintiffs pursuant to the Protective Order
Hochman Rebuttal Report Appendix F (entirety)	Plaintiffs	Contains Material Designated "Confidential" by Plaintiffs pursuant to the Protective Order
Hochman Rebuttal Report Appendix G (entirety)	Plaintiffs	Contains Material Designated "Confidential" by Plaintiffs

		pursuant to the Protective Order
Hochman Rebuttal Report Appendix H (entirety)	Plaintiffs	Contains Material Designated “Confidential” by Plaintiffs pursuant to the Protective Order
Hochman Rebuttal Report Appendix I (entirety)	Plaintiffs	Contains Material Designated “Confidential” by Plaintiffs pursuant to the Protective Order
Hochman Rebuttal Report Appendix J (entirety)	Plaintiffs	Contains Material Designated “Confidential” by Plaintiffs pursuant to the Protective Order
Plaintiffs’ Opposition to Google’s Motion for Summary Judgment: portions highlighted in yellow throughout	Google	Refers to Material Designated “Confidential” and “Highly Confidential – Attorneys’ Eyes Only” by Google pursuant to the Protective Order
Exhibits to Mao Declaration in Support of Plaintiffs’ Opposition to Google’s Motion for Summary Judgment	Google	Material Designated “Confidential” and “Highly Confidential – Attorneys’ Eyes Only” by Google pursuant to the Protective Order

I. LEGAL STANDARD

A. Party Seeking to Seal Its Own Records

“The public has a right of access to the Court’s files.” Civil L.R. 79-5(a). The presumption of public access can be overcome where the sealing party “articulate[s] compelling reasons supported by specific factual findings . . . that outweigh . . . public policies favoring disclosure such as the public interest in understanding the judicial process.” *Kamakana v. City & Cnty. of Honolulu*, 447 F.3d 1172, 1178–79 (9th Cir. 2006) (citations omitted). Courts “must conscientiously balance the competing interests of the public and the party who seeks to keep certain judicial records secret.” *Id.* (citing *Foltz v. State Farm Mut. Auto Ins. Co.*, 331 F.3d 1122, 1135 (9th Cir. 2003)) (marks omitted).

B. Party Seeking to Seal Another Party’s Records

Some of the documents listed above quote, summarize, or otherwise reflect information that Defendant, Google LLC (“Google”) has designated as “Confidential” or “Highly Confidential

– Attorneys’ Eyes Only” under the parties’ stipulated protective order. Dkt. 81. Pursuant to Civil Local Rules 79-5(c)(1) and 79-5(f)(3), Google, as the designating party, bears the burden of establishing that all of the designated material is sealable. At present, Plaintiffs take no position as to whether the material Google designated under the protective order is sealable.

II. ARGUMENT

Plaintiffs seek to seal portions of an expert report submitted by their technical expert, Mr. Jonathan Hochman. These portions contain material that Plaintiffs are designating “Confidential” pursuant to the parties’ stipulated Protective Order. Specifically, the portions sought to be sealed associate one of the named Plaintiffs (or their experts) with various identifiers and information related to their browsing. *E.g.*, Hochman Rebuttal Report ¶ 23 (connecting Plaintiff Chasom Brown to various identifiers. In that example, Plaintiffs merely seek to seal ID numbers and the names of documents containing those IDs. In other cases, Plaintiffs seek to seal spreadsheets containing records produced from Google’s logs and summaries thereof—where Mr. Hochman has listed the Plaintiffs’ names alongside browsing history and identifiers, *e.g.*, Hochman Report App. I, which Plaintiffs expect Google will in any event seek to seal since it contains the names of Google logs and identifiers. Plaintiffs’ narrowly tailored proposals “will not interfere with the public’s ability to understand the judicial process.” *Ojmar US, LLC v. Sec. People, Inc.*, 2016 WL 6091543, at *2 (N.D. Cal. Oct. 19, 2016). Plaintiffs are not seeking to redact any of Mr. Hochman’s opinions.

Furthermore, “an individual’s privacy interest” is a compelling reason to seal a document. *Nursing Home Pension Fund v. Oracle Corp.*, 2007 WL 3232267, at *2 (N.D. Cal. Nov. 1, 2007) (allowing redaction of home addresses and financial account information); *McDonald v. CP OpCo, LLC*, 2019 WL 343470, at *9 (N.D. Cal. Jan. 28, 2019) (sealing email addresses, recognizing they “could become a vehicle for improper purposes”); *Pension Plan for Pension Tr. Fund for Operating Eng’rs. v. Giacalone Elec. Servs., Inc.*, 2015 WL 3956143, at *10 (N.D. Cal. June 29, 2015). This Court has previously granted a motion to seal this same material (Dkt. 804 at 14) and granted substantially similar motions to seal these (and other alike) materials in the related case of

1 *Calhoun v. Google LLC*. See, e.g., No. 4:20-cv-05146-YGR-SVK (N.D. Cal.), Dkt. 198 (sealing
2 *Calhoun* plaintiffs' web browsing history and information).

3 **III. CONCLUSION**

4 For the reasons articulated herein, Plaintiffs respectfully request that the Court grant their
5 Administrative Motion to Seal.

6 Dated: April 12, 2023

Respectfully submitted,

7 By: /s/Mark Mao

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